

Message Text

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SUBJ: UNGA LEGAL COMITE: REPORT OF INTERNATIONAL LAW
COMMISSION (ILC)

SUMMARY: DEBATE ON ILC REPORT CONCLUDED OCTOBER 29. MAIN
POINTS OF INTEREST IN STATEMENT OF FINAL SPEAKERS DEALT
WITH ILC WORK ON STATE RESPONSIBILITY AND THE MFN CLAUSE.
END SUMMARY.

1. STATE RESPONSIBILITY. SWAZILAND, SYRIA, AND GHANA STATED
NATIONAL LIBERATION MOVEMENTS (NLMS) SHOULD BE EXCEPTED FROM
THE RULE THAT INSURRECTIONAL MOVEMENTS UPON ASSUMING AUTHORITY
OVER A STATE SHOULD BE RESPONSIBLE FOR THE MOVEMENTS'
EARLIER WRONGFUL ACTS. BOLIVIA AGREED WITH THIS PRINCIPLE
BUT ONLY WHERE THE NLM IS FIGHTING AGAINST COLONIALISM.
BOLIVIAN DEL STATED WHERE THE STATE IS "VALIDLY
CONSTITUTED" THERE CAN BE NO EXCEPTION TO THE RESPONSIBILITY
OF AN INSURRECTIONAL MOVEMENT. INDONESIA QUESTIONED ILC
DRAFT IN THAT DRAFT APPEARED HOLD INSURRECTIONAL MOVEMENT
RESPONSIBLE FOR ACTS OF ITS ORGANS. INDONESIA ARGUED
THAT, SINCE BY VERY NATURE OF INSURRECTION, MOVEMENT WAS
UNLIKELY HAVE FULL CONTROL OVER ALL ITS ORGANS, MOVEMENT
SHOULD NOT BE HELD RESPONSIBLE FOR ORGAN'S ACTS. SIR VINCENT
EVANS (UK) RAISED POINT THAT USE OF TERM "ORGAN" OF
A STATE WAS ITSELF VAGUE, AND SUGGESTED, ILC, WHEN DRAFTING
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DEFINITIONS OF ITEMS, SHOULD DEFINE "ORGAN". SYRIAN DEL

STATED DISTINCTION SHOULD BE MADE BETWEEN INTERNATIONALLY WRONGFUL ACTS AND ACTS WHICH THREATEN PEACE AND SECURITY. LATTER WOULD INCLUDE FOREIGN DOMINATION, OCCUPATION, DISPLACEMENT OF PEOPLE FROM THEIR HOMES, AND AGGRESSION. HE ARGUED THAT STATES SHOULD BE "PENALLY" RESPONSIBLE FOR SUCH ACTS.

2. MFN. ILC DRAFT WAS GENERALLY REGARDED AS COMMENDABLE, ESPECIALLY IN ITS ACKNOWLEDGMENT THAT LDCS SHOULD BE GRANTED NON-RECIPROCAL PREFERENCES. IRAN AND GUATEMALA CONSIDERED THIS WAS CONSISTENT WITH SIXTH AND SEVENTH SPECIAL SESSIONS AND CERDS. EEC DEL GAVE SHORT STATEMENT (TEXT POUCHED L - DALTON) REITERATING EEC POSITION THAT ILC TEXT DOES NOT ADEQUATELY REFLECT TREND TO REGIONAL ECONOMIC COOPERATION. GUATEMALA AND SWAZILAND ECHOED EEC VIEW THAT ILC SHOULD REVIEW MFN ARTICLES IN LIGHT OF TREND TO REGIONAL ECONOMIC INTEGRATION. UK AND FRENCH DELS STATED VIEW ILC SHOULD NOT EXPAND SCOPE OF WORK ON MFN CLAUSE SO AS TO INCLUDE PROVISIONS ON NATIONAL TREATMENT. SWAZILAND TOOK CONTRARY VIEW.
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